

4180

2011-2012 Regular Sessions

I N   S E N A T E

March 22, 2011

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Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to suspending the state sales and compensating use tax on certain disaster clean-up items during a state of emergency and authorizing localities to waive such tax during the same period

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 1115 of the tax law is amended by adding a new  
2     subdivision (gg) to read as follows:  
3     (GG) THE GOVERNOR MAY TEMPORARILY SUSPEND SALES AND COMPENSATING USE  
4     TAXES ASSOCIATED WITH SERVICES OTHERWISE TAXABLE UNDER SUBDIVISION (C)  
5     OF SECTION ELEVEN HUNDRED FIVE OR UNDER SECTION ELEVEN HUNDRED TEN OF  
6     THIS ARTICLE RENDERED IN CLEAN-UP AND REPAIR OF REAL PROPERTY, PROPERTY  
7     OR LAND, AS SUCH TERMS ARE DEFINED IN THE REAL PROPERTY TAX LAW, WHEN  
8     SUCH SERVICES ARE PROVIDED BY A CONTRACTOR, SUBCONTRACTOR, REPAIRPERSON  
9     OR OWNER OF SUCH REAL PROPERTY, PROPERTY OR LAND LOCATED IN AN AFFECTED  
10    COUNTY DURING THE PERIOD OF TIME DECLARED BY THE GOVERNOR AS A STATE  
11    DISASTER EMERGENCY, AS DEFINED BY SECTION TWENTY OF THE EXECUTIVE LAW,  
12    AND UP TO SIXTY DAYS THEREAFTER.  
13    S 2. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
14    1210 of the tax law, as amended by section 3 of part GG of chapter 57 of  
15    the laws of 2010, is amended to read as follows:  
16    (ii) Any local law, ordinance or resolution enacted by any city, coun-  
17    ty or school district, imposing the taxes authorized by this subdivi-  
18    sion, shall omit the residential solar energy systems equipment  
19    exemption provided for in subdivision (ee) and the clothing and footwear  
20    exemption provided for in paragraph thirty of subdivision (a) AND THE  
21    STATE OF EMERGENCY CLEAN-UP ACTIVITIES PROVIDED FOR IN SUBDIVISION (GG)  
22    of section eleven hundred fifteen of this chapter, unless such city,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 county or school district elects otherwise as to either such residential  
2 solar energy systems equipment exemption or such clothing and footwear  
3 exemption.

4 S 3. Subdivision (d) of section 1210 of the tax law, as amended by  
5 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to  
6 read as follows:

7 (d) A local law, ordinance or resolution imposing any tax pursuant to  
8 this section, increasing or decreasing the rate of such tax, repealing  
9 or suspending such tax, exempting from such tax the energy sources and  
10 services described in paragraph three of subdivision (a) or of subdivi-  
11 sion (b) of this section or changing the rate of tax imposed on such  
12 energy sources and services or providing for the credit or refund  
13 described in clause six of subdivision (a) of section eleven hundred  
14 nineteen of this chapter must go into effect only on one of the follow-  
15 ing dates: March first, June first, September first or December first;  
16 provided, that a local law, ordinance or resolution providing for the  
17 exemption described in paragraph thirty of subdivision (a) OR SUBDIVI-  
18 SION (GG) of section eleven hundred fifteen of this chapter or repealing  
19 any such exemption or a local law, ordinance or resolution providing for  
20 a refund or credit described in subdivision (d) of section eleven  
21 hundred nineteen of this chapter or repealing such provision so provided  
22 must go into effect only on March first. No such local law, ordinance or  
23 resolution shall be effective unless a certified copy of such law, ordi-  
24 nance or resolution is mailed by registered or certified mail to the  
25 commissioner at the commissioner's office in Albany at least ninety days  
26 prior to the date it is to become effective. However, the commissioner  
27 may waive and reduce such ninety-day minimum notice requirement to a  
28 mailing of such certified copy by registered or certified mail within a  
29 period of not less than thirty days prior to such effective date if the  
30 commissioner deems such action to be consistent with the commissioner's  
31 duties under section twelve hundred fifty of this article and the  
32 commissioner acts by resolution. Where the restriction provided for in  
33 section twelve hundred twenty-three of this article as to the effective  
34 date of a tax and the notice requirement provided for therein are appli-  
35 cable and have not been waived, the restriction and notice requirement  
36 in section twelve hundred twenty-three of this article shall also apply.

37 S 4. Section 1210 of the tax law is amended by adding a new subdivi-  
38 sion (p) to read as follows:

39 (P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-  
40 NANCE OR RESOLUTION TO THE CONTRARY:

41 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
42 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
43 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
44 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE  
45 SAME STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND  
46 COMPENSATING USE TAXES, DURING THE SAME PERIODS EACH YEAR, DESCRIBED IN  
47 SUBDIVISION (GG) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY  
48 ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF  
49 THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF  
50 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-  
51 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED  
52 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-  
53 RATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLA-  
54 TURE AND APPROVED BY THE GOVERNOR.

55 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF  
56 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO SUBDIVISION (GG) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION, DURING THE SAME PERIODS SET FORTH IN SUCH SUBDIVISION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2011) AND SHALL APPLY TO SALES MADE AND USES OCCURRING DURING THE APPLICABLE EXEMPTION PERIODS EACH YEAR, IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

S 5. Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (a) Any county or city imposing sales and compensating use taxes pursuant to the authority of subpart B of part I of article 29 of the tax law, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for new state of emergency clean-up activities exempt from state sales and compensating use taxes described in subdivision (gg) of section 1115 of the tax law, as added by section one of this act, for the periods described therein, whether such taxes are imposed by local law, ordinance or resolution, by enacting a resolution exactly in the form set forth in subdivision (c) of this section, such enactment of such resolution shall be deemed to amend such local law, ordinance or resolution imposing such taxes, and such local law, ordinance or resolution shall thenceforth be deemed to incorporate such exemptions.

(b) Any city of one million or more in which the taxes imposed by section 1107 of the tax law are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same state of emergency clean-up activities exempt from state sales and compensating use taxes described in subdivision (gg) of section 1115 of the tax law, as added by section one of this act, for the periods described therein, by enacting a resolution exactly in the form set forth in subdivision (c) of this section, such enactment of such resolution shall be deemed to amend such section 1107 of the tax law and such section 1107 shall thenceforth be deemed to incorporate such exemption for such periods as if it had been duly enacted by the state legislature and approved by the governor and such resolution shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of subdivision (a) of section 1210 of the tax law, whether or not such taxes are suspended at the time such city enacts its resolution.

(c) Form of Resolution:

Be it enacted by the (insert proper title of local legislative body) as follows:

Section one: The (county or city) of (locality's name) hereby elects the state of emergency clean-up activities exemption periods commencing (commencement period).

Section two: This resolution shall take effect immediately and shall apply to sales made and uses occurring during the applicable periods each year, in accordance with applicable transitional provisions of the New York Tax Law.

(d) A resolution adopted pursuant to this section shall be effective only if it is adopted exactly as set forth in subdivision (c) of this

1 section and such county or city adopts it by November 15, 2010, mails a  
2 certified copy of it to the commissioner of taxation and finance by  
3 certified mail by such date and otherwise complies with the requirements  
4 of subdivisions (d) and (e) of section 1210 of the tax law.

5 S 6. This act shall take effect immediately and shall apply to sales  
6 made and uses occurring during exemption periods on or after such date  
7 in accordance with the applicable transitional provisions of sections  
8 1106 and 1217 of the tax law.